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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <u>P15744C</u>	
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		First Named Inventor <u>Sustin K. Brask et al.</u>	
		Art Unit <u>2822</u>	Examiner <u>Novacek, Christy</u>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>43,004</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>[Signature]</u> Signature <u>Michael D. Plonier</u> Typed or printed name <u>408-765-7857</u> Telephone number <u>March 15, 2006</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below".			
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Patent

Attorney's Docket No.: P15744C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of:

Justin K. Brask et al.

U.S. Serial No: 10/771,267

Filed: February 2, 2004

For: **A METHOD FOR MAKING A  
SEMICONDUCTOR DEVICE  
HAVING A HIGH-K GATE  
DIELECTRIC**

Examiner: Novacek, Christy L.

Art Unit: 2822

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**PRE-APPEAL BRIEF REQUEST FOR PANEL REVIEW**

Dear Examiner Novacek:

In accordance with the procedures outlined in the Official Gazette published July 12, 2005, Applicants respectfully request review of the following clear errors in connection with the above-identified application. The error is that the Examiner failed to show proper motivation to combine references in a rejection under 35 U.S.C. 103. Section 4 of the Official Gazette procedures states that this is an instance in which a request for panel review is warranted. This error was previously pointed out by the Applicants in the papers filed on September 29, 2005 and on February 15, 2006.

**Argument:**

The Examiner erroneously states that one of skill in the art would be motivated to combine Visokay et al. (U.S. Pub. 2003/0045080) (hereinafter "Visokay") with Boyd et al. (U.S. 6,845,778) (hereinafter "Boyd") to result in the method recited in Applicants' claim 27.

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Serial No.: 10/717,348

Attorney Docket: P17609

Because the references are concerned with different processes, one of skill in the art would not combine them as suggested by the Examiner.

Visokay is concerned with oxidizing material of a high-k layer (see, Visokay, paragraphs [0012], [0024], and [0029]) to remove defects such as oxygen vacancies (Visokay, paragraph [0024]). Visokay is not merely cleaning a surface of a substrate; it is concerned with chemically altering a layer via an oxidation reaction (Visokay, paragraph [0024]).

Boyd, in contrast, is concerned with cleaning particles from a surface of a substrate (see, Boyd, col. 1, lines 6-9). While Boyd indicates that megasonic energy is useful to remove particles from a surface (Boyd, col. 1, lines 25-27), there is no indication in Boyd that the megasonic energy would also be useful when chemically altering a high-k layer, as described by Visokay, or when removing impurities from a layer, as recited in claim 27.

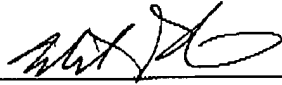
The Examiner's statements in the paper mailed March 3, 2006 that Boyd contains ample disclosure of the usefulness of megasonic energy in a cleaning step is not relevant to either claim 27 or Visokay, and do not support the rejection. Neither claim 27 nor Visokay are concerned with cleaning particles from a surface of a substrate. Rather, claim 27 recites a high-k layer that comprises impurities, and removing at least some of those impurities. Visokay is concerned with chemically altering a high-k layer by an oxidation reaction. As Visokay is not concerned with cleaning, one of skill in the art would not take Boyd's statements of the usefulness of using megasonic energy in a cleaning step as motivation to combine Boyd with Visokay.

Simply put: Boyd is concerned with cleaning foreign particles from a surface. Visokay is concerned with chemically altering the material of a layer. As the references are concerned with different processes, one of skill in the art would not be motivated to combine the two to result in the method recited in claim 27. The rejections are unsupported in the art and should be withdrawn.

Claims 28-34 depend from claim 27. The rejections of claims 28-31 should be withdrawn for the same reasons provided above with respect to claim 27. Claims 32-34 were rejected over Visokay in view of Boyd and further in view of Ahn et al. (U.S. Pub. 2004/0043569) (hereinafter "Ahn"). As Ahn fails to rectify the deficiency in the rejection of claim 27 identified above, the rejections of claims 32-34 should also be withdrawn.

Respectfully submitted,

Date: March 15, 2006

  
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ATTORNEY FOR APPLICANTS

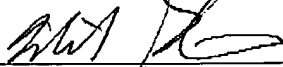
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